

United States District Court

MIDDLE

DISTRICT OF

ALABAMA

UNITED STATES OF AMERICA

v.

SIMONETTA GARTH

CRIMINAL COMPLAINT

CASE NUMBER:

2:06mj/35-SRW

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about November 30, 2006, in Montgomery county and elsewhere within

the Middle District of Alabama defendant(s) did, (Track Statutory Language of Offense)

knowingly and intentionally possess with intent to distribute approximately 993 grams of cocaine base and approximately 756 grams of cocaine hydrochloride, a Schedule II Controlled Substance,

in violation of Title 21 United States Code, Section(s) 841(a)(1) I further state that I am a(n)

High Intensity Drug Trafficking Area Agent and that this complaint is based on the following facts:
Official Title

SEE THE ATTACHED AFFIDAVIT WHICH IS INCORPORATED BY REFERENCE

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No


Signature of Complainant

Sworn to before me and subscribed in my presence,

December 2, 2006


Date

at Montgomery, Alabama

City and State

Susan Rush Walker, U.S. Magistrate Judge

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT

I, Rebecca A. Sparkman, having appeared before the undersigned United States Magistrate Judge, and having been duly sworn, deposes and state the following is true and correct to the best of my knowledge and belief:

I am a Sergeant with the Montgomery Police Department's, Special Operations Division, Narcotics Bureau. I have been employed with the Montgomery Police Department for 19 years and have been a sworn officer for 11 ½ years. I have been assigned to the Narcotics Bureau for 9 ½ years. I am currently assigned to the High Intensity Drug Trafficking Area (HIDTA) Task Force. I was assigned to the same Task Force from 1999 to 2004 and I was reassigned to the Task force in July, 2006. The following information was obtained during the course of an investigation with information gained personally and from other law enforcement officers.

On December 1, 2006 at 04:23 am, the Montgomery Police Department Uniform Patrol Division was dispatched to 1103 Lynwood Drive, Montgomery, Alabama in reference to a subject shot. POF Z Marshall and POF Fitzpatrick arrived on the scene where a black male Vincent Spencer was lying in the driveway of the residence with a gunshot wound to his abdomen. Montgomery Fire-Medics Unit 94 and Haynes Ambulance arrived on the scene and transported MR Spencer to Baptist Hospital South Emergency Room where he underwent surgery for his life-threatening injuries. POF's Marshall and Fitzpatrick secured the scene until Detectives arrived.

Upon arrival, GARTH initially identified herself to the Police Officers as Bianca GARTH, 16 years of age. GARTH maintained her identity as Bianca GARTH until approximately 12:30 am while being questioned at the Montgomery Police Department's Detective Division by DET M Myrick and TFO R Sparkman. Shortly after 12:30 pm, GARTH stated Bianca is her sister and she lied about her name because she was scared.

DET J M Smith arrived on the scene and secured the scene and witnesses. Present at the scene were MR Spencer (victim), the defendant (Simonetta GARTH), Cassandra and Charles Loder (Homeowners). DET Smith ascertained that only GARTH and MR Spencer were present when the shooting occurred. DET Smith, SGT Smith, and DET Fulton smelled a strong odor of raw marijuana inside the residence. Officers also located a spent shell casing inside the residence along with a large amount of currency lying on the dresser in the master bedroom. DET Smith observed shoeprints on a door frame leading to the attic, which was located directly outside the master bedroom and hall bathroom door. GARTH ordered all law enforcement out of the residence. Based on the strong smell of raw marijuana, the large amount of currency on the dresser and the spent shell casing, SGT Drummond secured a State Search Warrant for 1103 Lynwood Drive.

During the execution of the search warrant officers located approximately 993 grams of crack cocaine and approximately 756 grams of cocaine. This was located in the attic. One (1) Sig Saur 9mm pistol loaded with 12 rounds with one in the chamber, One (1) Master Arms 45 caliber handgun loaded with 27 rounds with one in the chamber and a

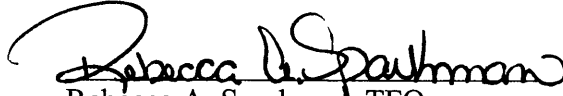
suppressor, two (2) 9mm extended clips (1 loaded with 26 rounds, 1 loaded with 17 rounds), \$11,210.00 of assorted US Currency, and one bag of marijuana was located in a cubby hole in the dirty clothes hamper (built into the wall) in the bathroom in the hallway of the residence. \$8,643.00 of assorted US Currency was located on top of the dresser in the master bedroom. Assorted cookware with cocaine residue was located in a kitchen cabinet. Assorted paper documents reveal that GARTH receives mail at this residence.

GARTH was transported to the Montgomery Police Department's Detective Division. DET Myrick read GARTH her Miranda Rights from a standard form and signed the form. GARTH read out loud her portion of the form and signed the form. This was witnessed by TFO Sparkman.

GARTH agreed to answer questions about the incident at 1103 Lynwood Drive. GARTH correctly identified herself as Simonetta GARTH at this point. GARTH stated her boyfriend, Larry Holmes lives at this residence and she sometimes stays there. GARTH stated that yesterday morning (November 30, 2006), MR Holmes came to her residence located at 1327 Martha Street and stated that he was going to Birmingham. GARTH stated MR Holmes asked her to stay at the residence on Lynwood Drive. GARTH stated that MR Holmes didn't want her to stay at the residence by herself and that MR Spencer would be there also. GARTH stated she wasn't comfortable with MR Spencer so he stayed outside in the truck. GARTH stated she arrived at the residence at approximately 02:45 am and MR Spencer gave her a key to the residence to enter the house. GARTH stated she went to bed at approximately 03:15 am, and was awakened by gunshots approximately 30 minutes later. GARTH stated she heard approximately six shots and it sounded like two people were shooting at each other. GARTH stated a short time later, she heard another set of six shots and then it got quiet. GARTH stated she was the only one inside the residence and that she heard MR Spencer calling for help from the driveway. GARTH stated she was scared and called Cassandra Loder for help. MS Loder and her husband Charles Loder arrived at the residence and called for the police.

GARTH stated she stays at the residence some times and that MR Spencer is known as "DOOR MAN" because he guards the residence. GARTH stated that MR Spencer is not allowed inside the residence and is always either in the truck in the carport or the back porch area which is enclosed. GARTH stated she laid \$3,000.00 on the dresser in the master bedroom where she was sleeping. GARTH stated she didn't know where the other \$5,643.00 came from which was the total of the currency located on the dresser.

Based on the above facts, probable cause exists to arrest Simonetta GARTH for Possession with Intent to Distribute Cocaine Base, in violation of Title 21 USC 841 (a)(1). Further that the events occurred in the Middle District of Alabama.


Rebecca A. Sparkman, TFO
High Intensity Drug Trafficking Area
(HIDTA)

Sworn to and subscribed before me this ~~2nd~~ day of December, 2006.


United States Magistrate Judge